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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/788,641

02/27/2004

Steven F. Burson

01-7118

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04/23/2008

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IP Department/Legal

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EXAMINER

FAULK, DEVONA E

ART UNIT

PAPER NUMBER

2615

MAIL DATE

DELIVERY MODE

04/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/788,641 | Applicant(s) BURSON ET AL. | |
| | Examiner DEVONA E. FAULK | Art Unit 2615 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2/22/2008 have been fully considered but they are not persuasive. In response to applicant's argument that asserts that it would have not been obvious to incorporate the antenna of Lin into the voice tube of Nassimi since Nassimi already protects the antenna from damage, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Nassimi only teaches that an antenna can be located on or within the tube. Lin teaches of an antenna integrated within the thickness of the tube as claimed. The antenna would be better protected from damage if it was fully integrated in the tube. The examiner is maintaining the rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3,5,6,10,11,13,14 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Nassimi (U.S. Patent Application 2004/0204155) in view of Lin (US 6,670,886).

Regarding claim 1, Nassimi discloses a wireless headset (Figure 1) comprising;

- a microphone (page 3, paragraph 0036);

- a voice tube defining a lumen therein extending between an open end of the voice tube and the microphone for acoustic transmission between the open end of the voice tube and the microphone (18; Figure 1; page 3, paragraph 0036), the voice tube having a thickness defined between an interior and an exterior surface thereof (inherent; thickness is defined as the dimension through an object as opposed to its length or width) ;

- an antenna at least partially integrated within the voice tube (page 3, paragraph 0037; Nassimi teaches that the antenna is within the tube and within reads on within the thickness);

- a transmitter in communication with the antenna for transmitting signals from the microphone via the antenna (paragraph 0028).

Nassimi discloses an antenna that can be located on or within the tube (page 3, paragraph 0036).

Nassimi fails to disclose that the antenna is integrated within the thickness of the tube. Lin discloses an antenna (26a. Figure 2), located within the thickness of a tube (42, Figure 2; column 3, lines 43-50). It would have been obvious to modify Nassimi by

having the antenna integrated within the thickness of the tube so that the antenna is better protected from damage.

All elements of claim 2 are comprehended by the rejection of claim 1 (Nassimi,2; Figure 1, paragraph 0036).

All elements of claim 3 are comprehended by the rejection of claim 2 (Nassimi, 12; Figure 1; paragraph 0036).

All elements of claim 5 are comprehended by the rejection of claim 1 (An antenna is a metallic apparatus for sending or receiving electromagnetic waves so it is inherent that the antenna is formed of a metallic material).

All elements of claim 6 are comprehended by the rejection of claim 5.

All elements of claim 10 are comprehended by the rejection of claim 1 (Nassimi, paragraph 0037).

Regarding claim 11, Nassimi discloses a voice tube (18, Figure 1; page 3, paragraph 0036), comprising :

a tubular member having an open end and an opposing end, the opposing end being configured to be coupled to a microphone (paragraph 0036), the tubular member having a thickness defined between an interior and an exterior surface thereof (inherent; thickness is defined as the dimension through an object as opposed to its length or width) ;

a lumen (inherent; Lumen is defined as the inner open space or cavity of a tubular organ) defined by the tubular member extending between the open end and the

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opposing end for acoustic transmission between the open end and the microphone (Figure 1);

and an antenna at least partially integrated within the tubular member, the antenna being configured to be coupled to at least one of a transmitter and a receiver for wirelessly transmitting and receiving signals via the antenna, respectively (paragraphs 0028 and 0037; inherent, Nassimi teaches that the antenna is within the tube). Lumen is defined as the inner open space or cavity of a tubular organ.

Nassimi discloses an antenna that can be located on or within the tube (page 3, paragraph 0036).

Nassimi fails to disclose that the antenna is integrated within the thickness of the tube. Lin discloses an antenna (26a, Figure 2), located within the thickness of a tube (42, Figure 2; column 3, lines 43-50). It would have been obvious to modify Nassimi by having the antenna integrated within the thickness of the tube so that so that the antenna is better protected from damage.

All elements of claim 13 are comprehended by the rejection of claim 11 (An antenna is a metallic apparatus for sending or receiving electromagnetic waves so it is inherent that the antenna is formed of a metallic material).

All elements of claim 14 are comprehended by the rejection of claim 13.

All elements of claim 18 are comprehended by the rejection of claim 11 (paragraph 0037).

3. Claims 4,8,12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nassimi (U.S. Patent Application 2004/0204155) in view of Lin (US 6,670,886) in further view of Scott et al. (U.S Patent 4,917,504) .

Regarding claims 4 and 12, Nassimi as modified by Lin discloses a voice tube. Nassimi as modified fails to disclose that the voice tube is one of flexible and rigid (claim 4) and wherein the tubular member is one of flexible and rigid (claim 12). Scott discloses a headset where the voice tube or tubular member is one of flexible and rigid (16,16a, 16b; Figure 1; column 3, lines 10-25). Thus it would have been obvious to one of ordinary skill in the art at the time of the invention modify Nassimi as modified by having the voice tube or the tubular member be to flexible and rigid in order to enable bending or flexing of the tube.

Regarding claims 8 and 16, Nassimi as modified by Lin discloses a voice tube and a tubular member and an antenna as least partially embedded within the thickness of the voice tube. Nassimi as modified fails to disclose that the voice tube includes a tubular member formed of a nonmetallic material. An antenna is a metallic apparatus for sending or receiving electromagnetic waves so it is inherent that the antenna is formed of a metallic material. It is obvious that any antenna would have to be formed of some metallic material. Scott discloses a plastic voice tube (column 3, lines 15-20). Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nassimi as modified by have the tubular member be a nonmetallic tubular member in order to enable flexibility.

6. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nassimi (U.S. Patent Application 2004/0204155) in view of Lin (US 6,670,886) in further view of Pallai (U.S. Patent Application 2001/0036291) .

Regarding claims 7 and 15, Nassimi as modified by Lin discloses a voice tube with a metallic tubular member. Nassimi as modified fails to disclose that the voice tube includes a shrink tubing over the metallic tubular member (claim 7) and further comprising a shrink tubing over the tubular member (claim 15). Pallai discloses a voice conveying guide tube for headsets comprising shrink tubing over a tubular member (paragraphs 0034; Figure 7). Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nassimi as modified by including shrink tubing over the tubular member in order to better coat or cover the tubular member.

7. Claims 9 and 17 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Nassimi (U.S. Patent Application 2004/0204155) in view of Lin (US 6,670,886) in view of Scott et al. (U.S Patent 4,917,504) in further view of Pallai (U.S. Patent Application 2001/0036291) .

Regarding claims 9 and 17, Nassimi as modified by Lin and Scott discloses an antenna that is a metallic wire at least partially embedded in the thickness of the voice tube. Nassimi as modified by Lin and Scott fails to disclose that the metallic wire is one of spiral wound and extending generally straight along at least a portion of the length of the voice tube (claim 8) and that the metallic wire being one of spiral wound and extending generally straight along at least a portion of a length of the tubular member (claim 16). Nassimi teaches of an antenna integrated in a voice tube

(paragraph 0037) . Pallai discloses a voice tube comprising a metal coil spring (paragraph 0032). An antenna is a metallic apparatus for sending or receiving electromagnetic waves so it is inherent that the antenna is formed of a metallic material. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nassimi as modified by Lin and Scott by having the antenna be a spiral wound metallic wire in order to maintain a desired position.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 571-272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devona E. Faulk/
Examiner, Art Unit 2615

/Vivian Chin/
Supervisory Patent Examiner, Art Unit 2615